



Attorney Docket No. 24903

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

MARTIN, Thomas

U.S. Patent No. 6,960,588

Serial No. 10/070,279

Group Art Unit: 1624

Filed: March 6, 2002

Examiner: TUCKER, Zachary

For: **TRYPTASE INHIBITORS**

TRANSMITTAL LETTER

The Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

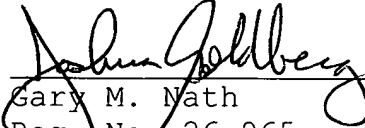
Sir:

Submitted herewith for filing in the U.S. Patent and Trademark Office is the following:

- 1) Transmittal Letter;
- 2) Application for Patent Term Adjustment;
- 3) Check No. 1273 in the amount of \$200.00.

Date: November 28, 2005
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Respectfully submitted,
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APPLICATION FOR PATENT TERM ADJUSTMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Application for Patent Term Adjustment is in response to the USPTO's mis-calculation of USPTO delay under 37 C.F.R. §1.702(b) in their calculation of the Patent Term Adjustment of the captioned application. Pursuant to 37 C.F.R. §1.705, applicant outlines herewith the circumstances under which two-hundred forty (240) days of USPTO delay was not properly assigned. As shown below, the USPTO improperly calculated the USPTO delay under 37 C.F.R. §1.702(b) as seventy-eight (78) days, but the actual USPTO delay under 37 C.F.R. §1.702(b) is two-hundred forty (240) days.

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Fee required by 37 C.F.R. §1.18(e)

Applicant submits herewith the requisite fee under 37 C.F.R. §1.18(e).

Statement under 37 C.F.R. §1.705(b) (2) (i)

Pursuant to 37 C.F.R. §1.705(b) (2) (i), applicant respectfully submits the following statement of facts. The current correct Patent Term Adjustment for the captioned application is three-hundred fifty-two (352) days. Contrary to the USPTO's assertion, the USPTO improperly calculated the USPTO delay under 37 C.F.R. §1.702(b) for failure to issue a patent within three years of the filing date as seventy-eight (78) days. However, the actual USPTO delay under 37 C.F.R. §1.702(b) is two-hundred forty (240) days.

The captioned application was filed on March 6, 2002. Thus, the captioned patent should have been issued no later than three years from this date, or March 6, 2005. The Official Letters Patent issued on November 1, 2005, or two-hundred forty (240) days after March 6, 2005. However, the USPTO indicated on the Patent Term Adjustment History Page only seventy-eight (78) days of USPTO delay under the heading "PTA 36 Months". This calculation is simply incorrect.

Statement under 37 C.F.R. §1.705(b) (2) (ii)

Pursuant to 37 C.F.R. §1.705(b) (2) (ii), applicant respectfully submits that the "relevant dates as specified in §§ 1.703(a) through (e) for which an adjustment is sought" are as follows:

§1.703(a) (1): One-hundred fifty-three (153) days of USPTO delay assigned on October 6, 2003 for failure to mail the first Official Action within fourteen months of the filing date of this application. In particular, the patentee respectfully notes that the application upon which this patent was granted was filed under 35 U.S.C. §371, and all requirements were fulfilled under 35 U.S.C. §371, on March 6, 2002. Thus, a first Official Action or Notice of Allowance was due no later than fourteen months from this date, or May 6, 2003. However, a first Official Action was mailed October 6, 2004, or 153 days after May 6, 2003. Accordingly, the USPTO should be assigned 153 days of delay in issuing a first Official Action.

§1.703(a) (6): Nine (9) days of USPTO delay assigned on November 1, 2005 for failure to issue the captioned patent within four (4) months of payment of the issue fee. In particular, the patentee respectfully notes that the Issue Fee was paid on June 23, 2005. Thus, the captioned patent should have issued within four (4) months of this date, or no later than October 23, 2005. However, the captioned patent issued on November 1, 2005, or 9 days after October 23, 2005. Accordingly, the USPTO should be assigned 9 days of delay in issuing the captioned patent.

\$1.703(b) : Two-hundred forty (240) days of USPTO delay for failure to issue the patent within three years of the filing date. The USPTO has improperly calculated this value to be seventy-eight (78) days. In particular, the patentee respectfully notes that the application upon which this patent was granted was filed under 35 U.S.C. §371, and all requirements were fulfilled under 35 U.S.C. §371, on March 6, 2002. Thus, the captioned patent should have been issued no later than three years from this date, or March 6, 2005. However, the captioned patent issued on November 1, 2005, or 240 days after March 6, 2005. Accordingly, the USPTO should be assigned 240 days of delay in issuing the captioned patent.

Thus, the total days of USPTO delay is four-hundred two (402).

Statement under 37 C.F.R. §1.705(b)(2)(iii)

Pursuant to 37 C.F.R. §1.705(b)(2)(iii), applicant respectfully submits that the patent resulting from this application is not subject to a terminal disclaimer.

Statement under 37 C.F.R. §1.705(b)(2)(iv)

Pursuant to 37 C.F.R. §1.705(b)(2)(iv), applicant respectfully submits that there was one circumstance constituting a failure to engage in reasonable efforts to conclude processing or examination of the captioned application as set forth in §1.704. This

circumstance is identified as follows:

§1.704(b): Applicant failed to engage in reasonable efforts to conclude examination by filing a Response to an Official Action after the three (3)-month time period.

In particular, the USPTO mailed an Official Action on September 2, 2004 and applicant filed a Response to this Official Action fifty (50) days after the due date of December 2, 2004, i.e. on January 21, 2005. Thus, fifty (50) days of applicant delay were properly assigned to applicant for this delay.

Accordingly, applicant should be assigned a total delay of fifty (50) days.

CONCLUSION

Based on the above statement of facts, applicant respectfully requests that the USPTO properly assign two-hundred forty (240) days of USPTO delay for failing to issue the captioned patent within three years. As shown above, the USPTO improperly assigned seventy-eight (78) days of delay for failure to issue the captioned patent within three years, however, the proper calculation of USPTO delay is two-hundred forty (240) days.

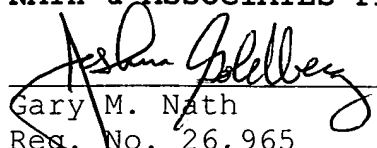
Therefore, the correct applicant delay for this patent is a total of fifty (50) days and the correct USPTO delay is a total of four-hundred two (402) days, resulting in a total PTA of three-

hundred fifty-two (352) days.

The Examiner is welcomed to telephone the undersigned attorney if he has any questions or comments.

Respectfully submitted,
NATH & ASSOCIATES PLLC

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